

सं. प्रो.वि./एफ. जी./152-84/23958.—चूंकि हरियाणा के राज्यपाल की राय है कि मै. भारत पैकेजिंग इण्डस्ट्रीज फरीदाबाद, के श्रमिक श्रीमती कान्ती तथा उसके प्रबन्धकों के मध्य इसमें इसके बाद लिखित मामले में कोई औद्योगिक विवाद है ;

और चूंकि हरियाणा के राज्यपाल विवाद को न्यायनिर्णय हेतु निर्दिष्ट करना वांछनीय समझते हैं ;

इसलिए, अब, औद्योगिक विवाद अधिनियम, 1947 की धारा 10 की उपधारा (1) के खण्ड (ग) द्वारा प्रदान की गई शक्तियों का प्रयोग करते हुए, हरियाणा के राज्यपाल इसके द्वारा सरकारी अधिसूचना सं. 5415-3-अम-68/15254, दिनांक 20 जून, 1968, के साथ बढ़ते हुए अधिसूचना सं. 11495-जी-अम-अम/57/11245, दिनांक 7 फरवरी, 1958, द्वारा उक्त अधिनियम की धारा 7 के अधीन गठित श्रम न्यायालय, फरीदाबाद, को विवादग्रस्त या उससे सुसंगत या उससे सम्बन्धित नीचे लिखा मामला न्यायनिर्णय के लिए निर्दिष्ट करते हैं, जो कि प्रबन्धकों तथा श्रमिक के बीच या तो विवादग्रस्त मामला है या विवाद से सुसंगत अथवा सम्बन्धित मामला है :—

क्या श्रीमती कान्ती की सेवाओं का समापन न्यायोचित तथा ठीक है ? यदि नहीं, तो वह किस राहत की हकदार है ?

दिनांक 17 जून, 1985

सं. प्रो. वि./रोहतक/56-85/25879.—चूंकि हरियाणा के राज्यपाल की राय है कि मै. बहादुरगढ़ सैन्ट्रल कोआपरेटिव कन्जूमर्स स्टोर लि., बहादुरगढ़ (रोहतक), के श्रमिक श्री नर सिंह तथा उसके प्रबन्धकों के बीच इसमें इसके बाद लिखित मामले में कोई औद्योगिक विवाद है ;

और चूंकि हरियाणा के राज्यपाल विवाद को न्यायनिर्णय हेतु निर्दिष्ट करना वांछनीय समझते हैं ;

इसलिए, अब, औद्योगिक विवाद अधिनियम, 1947, की धारा 10 की उपधारा (1) के खण्ड (ग) द्वारा प्रदान की गई शक्तियों का प्रयोग करते हुए, हरियाणा के राज्यपाल इसके द्वारा सरकारी अधिसूचना सं. 9641-1-अम-78/32573, दिनांक 6 नवम्बर, 1970 के साथ गठित सरकारी अधिसूचना की धारा 7 के अधीन गठित श्रम न्यायालय, रोहतक को विवादग्रस्त या उससे सुसंगत या उससे संबन्धित नीचे लिखा मामला न्यायनिर्णय के लिए निर्दिष्ट करते हैं, जो कि उक्त प्रबन्धकों तथा श्रमिक के बीच या तो विवादग्रस्त मामला है या विवाद से सुसंगत अथवा संबन्धित मामला है :—

क्या श्री नर सिंह की सेवाओं का समापन न्यायोचित तथा ठीक है ? यदि नहीं, तो वह किस राहत का हकदार है ?

सं. प्रो. वि./रोहतक/58-85/25886.—चूंकि हरियाणा के राज्यपाल की राय है कि मैनेजर, बहादुरगढ़ सैन्ट्रल को-ओप. कन्जूमर्स स्टोर लि., बहादुरगढ़ (रोहतक), के श्रमिक श्री श्री भगवान तथा उसके प्रबन्धकों के बीच इसमें इसके बाद लिखित मामले में कोई औद्योगिक विवाद है ;

और चूंकि हरियाणा के राज्यपाल विवाद को न्यायनिर्णय हेतु निर्दिष्ट करना वांछनीय समझते हैं ;

इसलिए, अब, औद्योगिक विवाद अधिनियम, 1947 की धारा 10 की उपधारा (1) के खण्ड (ग) द्वारा प्रदान की गई शक्तियों का प्रयोग करते हुए, हरियाणा के राज्यपाल इसके द्वारा सरकारी अधिसूचना सं. 9641-1-अम-78/32573, दिनांक 6 नवम्बर, 1970 के साथ गठित सरकारी अधिसूचना की धारा 7 के अधीन गठित श्रम न्यायालय, रोहतक को विवादग्रस्त या उससे सुसंगत या उससे संबन्धित नीचे लिखा मामला न्यायनिर्णय हेतु निर्दिष्ट करते हैं, जो कि उक्त प्रबन्धकों तथा श्रमिक के बीच या तो विवादग्रस्त मामला है या उक्त विवाद से सुसंगत या सम्बन्धित मामला है :—

क्या श्री श्री भगवान की सेवाओं का समापन न्यायोचित तथा ठीक है ? यदि नहीं, तो वह किस राहत का हकदार है ?

सं. प्रो. वि./रोहतक/57-85/25893.—चूंकि हरियाणा के राज्यपाल की राय है मै. बहादुरगढ़ सैन्ट्रल को-ओपरेटिव कन्जूमर्स स्टोर लि., बहादुरगढ़ (रोहतक), के श्रमिक श्री उमेश सिंह तथा उसके प्रबन्धकों के बीच इसमें इसके बाद लिखित मामले में कोई औद्योगिक विवाद है ;

और चूंकि हरियाणा के राज्यपाल विवाद को न्यायनिर्णय हेतु निर्दिष्ट करना वांछनीय समझते हैं ;

इसलिए, अब, औद्योगिक विवाद अधिनियम, 1947, की धारा 10 की उपधारा (1) के खण्ड (ग) द्वारा प्रदान की गई शक्तियों का प्रयोग करते हुए, हरियाणा के राज्यपाल इसके द्वारा सरकारी अधिसूचना सं. 9641-1-अम-78/32573, दिनांक 6

नवम्बर, 1970 के साथ गठित सरकारी अधिसूचना की धारा 7 के अधीन गठित श्रम न्यायालय, रोहतक, को विवादग्रस्त या उससे सुसंगत या उससे सम्बन्धित नीचे लिखा मामला न्याय निर्णय हेतु निदिष्ट करते हैं, जो कि उक्त प्रबन्धकों तथा श्रमिक के बीच या तो विवादग्रस्त मामला है या उक्त विवाद से सुसंगत या सम्बन्धित मामला है :—

क्या श्री उमैद सिंह की सेवाओं का समापन न्यायोचित तथा ठीक है? यदि नहीं, तो वह किस राहत का हकदार है?

सं. ओ.वि./आई. डी/रोहतक/51-85/25900.—चूंकि हरियाणा के राज्यपाल की राय है कि मै. मोहन स्पीनिंग मिल्ज रोहतक के श्रमिक श्री महावीर सिंह तथा उसके प्रबन्धकों के बीच इसमें इसके बाद लिखित मामले में कोई औद्योगिक विवाद है;

और चूंकि हरियाणा के राज्यपाल विवाद को न्यायनिर्णय हेतु निदिष्ट करना वांछनीय समझते हैं;

इसलिए, अब, औद्योगिक विवाद अधिनियम, 1947, की धारा 10 की उपधारा (1) के खण्ड (ग) द्वारा प्रदान की गई शक्तियों का प्रयोग करते हुए हरियाणा के राज्यपाल इसके द्वारा सरकारी अधिसूचना सं. 9641-1-अम 70/32573, दिनांक 6 नवम्बर, 1970, के साथ गठित सरकारी अधिसूचना सं. 3864-ए-एस-प्रो० (ई) अम-70/1348, दिनांक 8 मई, 1970 द्वारा उक्त अधिनियम की धारा 7 के अधीन गठित श्रम न्यायालय, रोहतक, को विवादग्रस्त या उससे सुसंगत या उससे सम्बन्धित नीचे लिखा मामला न्यायनिर्णय हेतु निदिष्ट करते हैं जो कि उक्त प्रबन्धकों तथा श्रमिक के बीच या तो विवादग्रस्त मामला है या उक्त विवाद से सुसंगत या सम्बन्धित मामला है :—

क्या श्री महावीर सिंह की सेवाओं का समापन न्यायोचित तथा ठीक है? यदि नहीं, तो वह किस राहत का हकदार है?

जे० पी० रतन;

उप-सचिव, हरियाणा सरकार,  
श्रम विभाग।

## LABOUR DEPARTMENT

The 24th May, 1985.

No. 9/5/84-Lab./4139.—In pursuance of the provisions of section 17 of the Industrial Disputes Act, 1947 (Central Act No. XIV of 1947), the Governor of Haryana is pleased to publish the following award of Presiding Officer, Labour Court, Rohtak in respect of the dispute between the workmen and the management of Haryana Roadways, Hissar.

BEFORE SHRI B. P. JINDAL, PRESIDING OFFICER, LABOUR COURT, ROHTAK.

Reference No. 149 of 79.

between

SHRI SHER SINGH, WORKMAN AND THE MANAGEMENT OF HARYANA ROADWAYS, HISSAR.

Shri S. N. Vats, A.R., for the workman.

Shri V. K. Kohli, A.R., for the management.  
AWARD

1. In exercise of the powers conferred by clause (c) of sub-section (1) of section 10 of the Industrial Disputes Act, 1947, the Governor of Haryana, referred the following dispute, between

the workman Shri Sher Singh and the management of M/s. Haryana Roadways, Hissar, to this Court, for adjudication,—vide Labour Department Gazette Notification No. HSR/14-79/32474, dated 17th July, 1979:—

Whether the termination of service of Shri Sher Singh was justified and in order  
If not, to what relief is he entitled?

2. On receipt of the order of reference, notices were issued to the parties. The parties appeared. The case of the workman is that he was employed with the management as a Conductor on regular basis and was working at Hissar Depot. of the respondent, which choose to terminate his services unlawfully on 20th January, 1970 on trumped up charges of dereliction of duties and immoral behaviour and that the enquiry conducted by the Traffic Manager was not fair and proper, because he was biased in favour of the management and as such order of termination passed by the General Manager on the basis of the same is null and void and liable to be set aside,

3. In the reply filed by the respondent, it is, admitted that the applicant was a regular employee but it is asserted that he was lawfully dismissed after holding a valid and proper domestic enquiry, in which the workman was found guilty of immoral acts, unbecoming a public servant, dereliction of duties and so, the General Manager, Hissar Roadways, within his rights to pass the order of termination, which was passed after he has fully applied his mind to the charges against the workman.

4. On the pleadings of the parties, the following issues were framed on 3rd October, 1979:—

- (1) Whether the enquiry held by the management was conducted legally and with applying full procedure mentioned for the enquiries ?
- (2) Whether the termination of service of Shri Sher Singh was justified and in order ? If not, to what relief ?
- (3) Whether the application is maintainable or not ?

5. Subsequently on an application filed by the management, the following additional issue was laid down for decision on 19th May, 1980:—

#### ADDITIONAL ISSUE :

Whether the domestic enquiry was fair and proper and accordance to the principles of natural justice ?

6. At this stage, it may be mentioned that an award in favour of the workman was rendered by Shri B. L. Dalal the then Presiding Officer,—vide his order dated 13th April, 1982. Against this award, the respondent/management filed a writ petition in the Hon'ble High Court of Punjab and Haryana, Before their Lordships, who heard the Writ Petition, the learned Counsel for the respondent roadways admitted that the award of the Labour Court suffers from a patent infirmity, because no opportunity was given to the management for establishing their case under issues No. 2 and 3. So, the award was set aside by their Lordships,—vide their order dated 23rd February, 1983. The learned Judges directed that a fresh award be rendered after affording adequate opportunity to both the parties for presenting their case.

7. After remand of the case, the management examined one witness Shri Ramesh Kumar, Clerk and the workman appeared again in defence of his case. Before remand, the management had examined MW-1 Shri R. S. Kundu, Traffic Manager and MW-2 Shri Mohan Lal, Clerk.

8. The learned Authorised Representative of the parties heard. Documents perused. My findings on the issues framed are as below:—

#### ISSUE NO. 1 AND ADDITIONAL ISSUE :

9. The vires of the domestic enquiry is being challenged by the workman on the ground that the Enquiry Officer Shri Kundu was biased against the workman and he was playing the role of a Judge as well as Prosecutor, because it is he who took up cudgals on behalf of the management in cross examining the workman during the course of enquiry and there was no Presenting Officer on behalf of the management during the enquiry proceedings. He further stated that the report of the Enquiry Officer is based upon conjectures and surmises.

10. Before taking up a discussion of the various pleas put forth on behalf of the workman, let us examine the allegations on the basis on which the domestic enquiry was held. It was alleged that on 12th September, 1977, the workman was Conductor on bus number HRF 5042 bound from Dabwali to Delhi, which developed defect on reaching Hissar and was taken to the workshop by Shri Badlu Ram, Driver and on return, he found the Conductor missing and his efforts to trace him out proved futile and the workman was ultimately found in the police Station, Hissar in drunken condition alongwith a woman of easy virtue. He asked for a substitute conductor from the Duty Clerk but none was provided. The General Manager, Roadways moved when the matter was reported to him on telephone at his residence. The General Manager directed the police to arrest the delinquent conductor and the woman. On the basis of these allegations, the enquiry was conducted, but surprisingly even after remand and having been given many opportunities, the respondent/management failed to adduce any evidence. The statement of Shri Badlu Ram, Driver, who was examined during enquiry proceeding but not in the Court is not at all confidence inspiring, because he has tried to fasten all liabilities upon the drivers in his zeal to save his skin. The duty clerk, Shri Mohan Lal, who was examined as MW-2 also stated that the driver Shri Badlu Ram approached him at about 11-00 a.m. for providing a substitute conductor as Shri Sher Singh, conductor accompanying him was not to be found. The statement of the driver before the Enquiry Officer and of the duty clerk, before the Court are discrepant on material points. If the conductor had taken any drinks with any woman of easy virtue, whose

identity was known to the respondent, She could be examined before the Enquiry Officer or before the Court to bring home the charges against the workman but no such procedure was adopted. The Enquiry Officer himself admitted that he himself was acting on behalf of the respondent in examining the witnesses of the prosecution and that no Presiding Officer was deputed by the management. The plea of the workman was that a woman boarded the bus from Sirsa for Hissar, but she had no money to purchase a ticket and on reaching Hissar, he insisted upon the workman to pay the fare, because he had already punched the tickets, at which altercation ensued and the matter was taken to the Police Station but no case was registered against him. Even if, it be believed that the plea of the workman is not plausible, even then, it cannot be found that the enquiry conducted against the workman was fair and proper, especially in view of the fact that the workman had alleged animus against the driver of the bus. I have also gone through the report of the Enquiry Officer, placed upon the file. The same is not based upon the evidence, which was adduced during the enquiry proceedings. He also put very embarrassing questions to the workman during the course of enquiry proceedings. All these facts go to show that the Enquiry Officer was partial towards the management and was out to make a report against the workman. At the risk of reptition, it can be observed that in spite of many opportunities being given to the management after remand of the case, no fresh evidence was adduced by the management except examining MW-3 Shri Ramesh Kumar, Clerk, who made a customary statement regarding holding of the enquiry against the workman. So, there is no escape from the conclusion that the enquiry held in this case was not proper

and vaild and as such, these issues are returned against the management.

ISSUE NO. 2:

11. Even after proper appraisal of evidence on record, it can not be held that any charges regarding dereliction of duty or immoral behaviour stand proved against the workman and I have already held that the management did not held any valid and proper domestic enquiry against the workman and so, the order of termination passed cannot be sustained.

ISSUE NO. 3:

12. This issue was not pressed on behalf of the respondent, so, the same goes against him.

13. In the light of my fore-going discussions, setting aside the order of termination, the workman is ordered to be reinstated with continuity of service and full back wages. The reference is answered and returned accordingly. There is no order as to cost.

Dated the 4th May, 1985.

B. P. JINDAL,  
Presiding Officer,  
Labour Court, Rohtak.

Endorsement No. 149/79/773, dated 11th May, 1985.

Forwarded, (four copies) to the Secretary to Government Haryana, Labour and Employment Departments, Chandigarh, as required under section 15 of the Industrial Disputes, Act, 1947.

B. P. JINDAL,  
Presiding Officer,  
Labour Court, Rohtak.

KULWANT SINGH,  
Commissioner and Secretary to  
Government Haryana,  
Labour and Employment Department.